

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA)
)
v.) NO. 2:05-CR-70
)
MICHAEL VASSAR)

O R D E R

The defendant has requested an “innocent possession” charge citing *United States v. Herron*, 432 F.3d 1127, 1135 (10th Cir. 2005). That case does not set out that charge, but instead that charge is given in *United States v. Mason*, 233 F.3d 619, 623 (D.C.Cir. 2001). However, the Sixth Circuit has held that a defendant’s claim that he possessed a firearm for innocent purposes was not a legitimate defense to an unlawful possession charge under 18 U.S.C. § 922(g). *United States v. Rutledge*, 33 F.3d 671, 673 (6th Cir. 1994).

Citing *Rutledge* and rejecting *Mason*, the Fourth Circuit in *United States v. Gilbert*, 430 F.3d 215, 220 (4th Cir. 2005) has also concluded:

Accordingly, we respectfully disagree with our one sister circuit that has recognized an innocent possession defense to a § 922(g)(1) charge, see *United States v. Mason*, 233 F.3d 619, 623 (D.C.Cir.2001), and join the two that have expressly rejected one, see *Teemer*, 394

F.3d at 64- 65; *United States v. Hendricks*, 319 F.3d 993, 1007 (7th Cir.2003); see also *United States v. Adkins*, 196 F.3d 1112, 1115 (10th Cir.1999) (rejecting contention that knowledgeable and unjustified possession for "a mere second or two" falls outside § 922(g)); *United States v. Reynolds*, 215 F.3d 1210, 1214 (11th Cir.2000) (rejecting contention that possession of a firearm "for an innocent reason" falls outside § 922(g)); *United States v. Rutledge*, 33 F.3d 671, 673 (6th Cir.1994) (rejecting contention that possession of a firearm "for innocent purposes" was "a legitimate defense" to § 922(g)).

Accordingly, it is hereby **ORDERED**, that the defendant's requested jury instruction on "innocent possession" is **DENIED**, because this instruction is not a correct statement of the law. [Doc. 244].

E N T E R:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE